

REMARKS

Applicants acknowledge the restriction election of the species represented by combinations of the compound of formula (I-b-1) and diafenthiuron. In view of the obviousness rejection discussed below, Applicants assume that the sentence in the Office Action under the heading "Election Status" is intended to indicate that the elected combination is not allowable as written. As discussed below, Applicants submit that the elected combination should be allowed and that the genus represented by compounds of formula (I) (as shown in Claim 7) in combination with diafenthiuron should also be allowed.

Typographical Error

During review of their specification Applicants noticed that the specification at page 11, line 20, states that when R is CH₃ the compound of formula (XX) is spinosyn B instead of the correct spinosyn D. Because compliance with 37 CFR 1.121(b) requires a replacement paragraph or section or a substitute specification, Applicants' amendment of the specification is lengthy because the paragraph extends from the bottom of page 1 of the specification through the top of page 16. Applicants apologize for any inconvenience to the Examiner.

Rejection under 35 U.S.C. 103

Claims 7-15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over WO 2000/042850 ("Wachendorff-Neumann") and the cited Ruder et al journal article in *Pesticide Biochemistry and Physiology*. Applicants respectfully traverse.

Applicants acknowledge the reference in the Office Action to a U.S. counterpart of Wachendorff-Neumann but note that the correct number of the counterpart is U.S. Patent 6,436,988. [It may be noted that the patent number mentioned in the Office Action (i.e., U.S. Patent 6,706,758) is for the issued parent of the present divisional application.]

Wachendorff-Neumann discloses the compound having the structure of Applicants' compound (I-b-1), optionally with extenders and/or surfactants, for use in controlling insects. E.g., '988 patent at column 1, lines 34-49, and column 2, lines 1-5. Wachendorff-Neumann, however, does not disclose combinations with other active ingredients, much less combinations of the more broadly defined compounds of Applicants' formula (I) with other active ingredients. The Ruder et al article discloses diafenthiuron but (based on the provided abstract) does not disclose

mixtures with other active ingredients, much less with compounds of Applicants' formula (I). The Office Action, however, points to an absence of data showing unexpected results for Applicants' claimed combinations. Applicants therefore submit a Declaration under 37 C.F.R. 1.132 of Dr. Wolfgang Thielert showing unexpectedly enhanced activity for a combination of Applicants' compound (I-b-1) (also known as spiromesifen) and diafenthiuron (as well as a number of other combinations not at issue here). See second set of data in Table A. Applicants therefore respectfully submit that they have overcome any inference of obviousness.

In view of the preceding amendments and remarks, allowance of the claims is respectfully requested.

Respectfully submitted,

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